

Message Text

CONFIDENTIAL

PAGE 01 QUITO 02053 171938Z

16

ACTION ARA-10

INFO OCT-01 EUR-12 ISO-00 FEA-01 ERDA-05 AID-05 CEA-01

CIAE-00 CIEP-01 COME-00 DODE-00 EB-07 FPC-01 H-02

INR-07 INT-05 L-03 NSAE-00 NSC-05 OMB-01 PM-04

USIA-06 SAM-01 OES-03 SP-02 SS-15 STR-04 TRSE-00

JUSE-00 SCS-03 SCA-01 PRS-01 PA-01 /108 W

----- 052593

R 171735Z MAR 76

FM AMEMBASSY QUITO

TO SECSTATE WASHDC 9412

INFO AMCONSUL GUAYAQUIL

C O N F I D E N T I A L QUITO 2053

E.O. 11652: GDS

TAGS: EINV, ENRG, PFOR, EC

SUBJECT: ADA CONSORTIUM'S APPEALS FOR ASSISTANCE

REF: STATE 053143

1. SUMMARY: WHILE WE AGREE THAT THE RECENT JUDGMENT OF THE MILITARY TRIBUNAL HAS CREATED A MORE FAVORABLE CLIMATE TO REINITIATE THE ADA CLAIM, ADA WILL FACE FORMIDABLE OBSTACLES IN REOPENING THE CLAIM AND RECEIVING COMPENSATION. END SUMMARY.

2. WE AGREE WITH THE DEPARTMENT THAT THE RECENT JUDGMENT OF THE MILITARY TRIBUNAL HAS CREATED A MORE PROPITIOUS CLIMATE FOR ADA TO PURSUE ITS CLAIM FOR COMPENSATION. AS A FIRST STEP, WE SUGGEST THAT ADA REPRESENTATIVES SEEK APPOINTMENTS WITH HIGH-LEVEL GOVERNMENT OFFICIALS TO REVIVE THE ADA CLAIM, AND THAT THE EMBASSY LIMIT ITS INVOLVEMENT AT THIS STATE TO HELPING ADA SECURE THE APPROPRIATE APPOINTMENTS.

3. HOWEVER, WE MUST REEMPHASIZE THAT ABSOLUTION OF MOST DEFENDANTS WILL NOT NECESSARILY LEGITIMIZE ADA'S CLAIM FOR
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 QUITO 02053 171938Z

COMPENSATION, SINCE IT DOES NOT ELIMINATE THE CONTROVERSY

SURROUNDING THE AWARD OF THE ADA CONCESSION. THE TWO AMERICANS SENTENCED (WALLYS AND WOLFE) DID NOT APPEAL, SO THE DECISION OF THE LOWER COURT AGAINST THEM REMAINS IN EFFECT. FORMER LOCAL ADA ATTORNEY, JOSE MARIA PEREZ, TOLD EMOFF THAT DR. WILLIAM WALLYS, A MIDDLEMAN IN THE TRANSFER OF THE CONCESSION TO ADA, HAD WRITTEN TO PEREZ AND ASKED HIM TO FIND A DEFENSE ATTORNEY TO APPEAL HIS CASE BEFORE THE MILITARY TRIBUNAL. PEREZ SAID NO DEFENSE ATTORNEY HE CONTACTED WAS WILLING TO APPEAL WALLYS' CASE. SHANNON WOLFE, REPRESENTATIVE FOR THE ORIGINAL CONCESSION HOLDERS, MADE NO ATTEMPT TO APPEAL HIS CASE.

4. THE MILITARY COURT ACTUALLY REAFFIRMED THE FORGERY PERPETRATED BY TWO HUMBLE ECUADOREAN CITIZENS AND THE NEGLIGENCE OF DUTY OF GALO PICO, THE FORMER MINISTER OF NATURAL RESOURCES. THE SENTENCE OF THE MILITARY COURT SAYS THAT PICO WAS NEGLIGENT IN AWARDED THE CONCESSION TO THE SHANNON WOLFE GROUP, SO IN EFFECT THE QUESTION OF THE ORIGINAL AWARD IS NOT CLEARED UP.

5. ACCORDING TO REFTTEL, THE ADA CONSORTIUM PLANS TO "MOUNT A PUBLIC RELATIONS CAMPAIGN". THE EMBASSY STRONGLY RECOMMENDS AGAINST AN ADA LOCAL PUBLIC RELATIONS CAMPAIGN TO "FORCE THE GOVERNMENT TO FOCUS ON THE MATTER OF COMPENSATION." WE THINK THIS WOULD AT BEST BE INEFFECTIVE, AND POSSIBLY COULD UNDERMINE ADA'S EFFORTS TO OBTAIN COMPENSATION THROUGH GOVERNMENTAL CHANNELS. THERE HAVE IN FACT BEEN ECUADOREAN NEWSPAPER ARTICLES CRITICAL OF THE ORIGINAL GOE DECISION TO BRING CHARGES AGAINST ADA'S PRINCIPALS. BUT ALL RECENT PRESS COMMENTARY HAS BEEN CRITICAL OF THE ORIGINAL COURT PROCESS WHICH LED TO THE HATCHET JOB OF THE SPECIAL TRIBUNAL, AND NONE ADVOCATES COMPENSATION FOR ADA. THE ADA CLAIM WILL NOT FIND SIGNIFICANT SUPPORT IN THE ECUADOREAN PUBLIC MEDIA, AND ADA OFFICIALS SHOULD RECOGNIZE THIS AND TAKE IT INTO ACCOUNT.

6. EMOFF SPOKE TO ADA'S CURRENT LOCAL LAWYER, DR. CARLOS JIMENEZ, ON MARCH 10 AND JIMENEZ SAID THAT AT HIS SUGGESTION THE PUBLIC RELATIONS CAMPAIGN WILL NOT ONLY FOCUS ON ADA'S RIGHT TO COMPENSATION, BUT WILL ALSO PUBLICIZE NORTHWEST CONFIDENTIAL

CONFIDENTIAL

PAGE 03 QUITO 02053 171938Z

ENERGY'S ALLEGED MISDOINGS WITH CEPE. REGARDLESS OF THE VERACITY (OR LACK THEREOF) OF THESE CLAIMS, THE EMBASSY IS CONVINCED THAT AN ATTACK ON NORTHWEST (A COMPANY WHICH ENJOYS THE GOOD GRACES OF MINISTER OF NATURAL RESOURCES VARGAS) WOULD BACKFIRE AGAINST ADA'S APPROACH TO THE GOVERNMENT. WE ENCOURAGE DESK TO SUGGEST TO ADA EXECUTIVES THAT THEY LEAVE THEIR CASE AGAINST NORTHWEST STRICTLY IN THE U.S. COURTS.

7. OSWALDO GONZALEZ, PREVIOUS ATTORNEY FOR THE ADA CONSORTIUM, HELD A PRESS CONFERENCE ON HIS RETURN TO ECUADOR MARCH 5. HE SAID THAT HE WAS "AMONG A GROUP OF CITIZENS THAT WERE VICTIMS OF A CONSPIRACY BETWEEN AN AMBITIOUS DICTATOR AND A MERCENARY TRIBUNAL." HE SAID THE CANCELLATION OF THE ADA CONCESSION WAS "AN ACT OF GOVERNMENTAL PIRACY WHICH RESULTED IN LOSS OF INTERNATIONAL PRESTIGE AND GRAVE ECONOMIC PREJUDICES FOR THE COUNTRY." ACCORDING TO FORMER FOREIGN MINISTER JULIO PRADO, GONZALEZ PLANS TO COUNTERSUE FOR DEFAMATION OF CHARACTER. ALSO, ACCORDING TO PRADO, GONZALEZ HAS BEEN TO DATE RECEIVING A \$500-A-MONTH RETAINER FROM ADA, SO HE MAY FEEL HE OWES SOMETHING TO THE CONSORTIUM. IN ANY CASE, EMBASSY DOES NOT FEEL GONZALEZ'S STATEMENTS WILL HAVE MUCH EFFECT ON ADA'S ATTEMPTS TO CLAIM COMPENSATION.

8. EMBASSY IS RELUCTANT TO MAKE ANY REPRESENTATIONS TO GOE OFFICIALS WITHOUT ADA ITSELF FIRST PURSUING ALL AVAILABLE MEANS. GIVEN THE LACK OF SUCCESS OF THE AMBASSADOR'S DEMARCHE TO FOREIGN MINISTER PAREDES IN JULY AND THE CURRENT HIGHLY SENSITIVE TEXACO-GULF SITUATION, WE FEEL THAT ANY DEMARCHE BY EMBASSY NOW COULD BACKFIRE ON THE U.S. GOVERNMENT AND ADA'S HOPES FOR COMPENSATION.

9. WE ARE ALSO OF THE OPINION THAT ADA'S VIEW OF MINISTER OF NATURAL RESOURCES VARGAS IS ESSENTIALLY NAIVE, AND IS BASED ON VARGAS' REMARKS TO JIMENEZ OR OTHER ADA OFFICIALS THAT ADA SHOULD RECEIVE COMPENSATION. VARGAS MAY HAVE INDEED MADE SUCH REMARKS AS CEPE MANAGER, BUT WE CAN NOW SEE NO REASON WHY VARGAS WOULD ADVOCATE COMPENSATION FOR ADA AND SEVERAL REASONS WHY HE WOULD NOT. IN THE FIRST PLACE, \$26 MILLION OR ANY PORTION THEREOF WOULD BE HARD TO COME BY, AND SECONDLY, VARGAS ALREADY HAS ANOTHER

CONFIDENTIAL

CONFIDENTIAL

PAGE 04 QUITO 02053 171938Z

CONCESSIONAIRE (NORTHWEST) IN THE GULF OF GUAYAQUIL, SO ADA'S EXPROPRIATION OBVIOUSLY HAS NOT HINDERED NATURAL GAS EXPLORATION.

10. FOR OUR INFORMATION, WE WOULD LIKE MORE DETAILS ABOUT ADA'S SUTI AGAINST NORTHWEST IN TEXAS. IT IS OUR IMPRESSION FROM THIS END THAT ADA WOULD HAVE OVERLOOKED THE ALLEGED BREACH OF SECRECY ON THE PART OF YURI ARKUS DUNTOV IF ADA HAD NOT FELT THIS SUIT WAS THE ONLY WAY TO BRING PRESSURE ON THE GOVERNMENT OF ECUADOR. THIS POINT SURELY WILL NOT BE LOST ON THE GOE. WE ARE ALSO AWARE THAT FORMER STOCKHOLDER OKC IN PLANNING TO SUE OR HAS BROUGHT SUIT AGAINST ADA FOR MISMANAGEMENT. WE WOULD APPRECIATE ANY DETAILS THE DESK COULD FURNISH ON THIS SUIT. THE EMBASSY DOES NOT WISH TO BECOME EMBROILED IN ANY CONFLICT BETWEEN TWO U.S.

FIRMS.

11. MEMBERSHIP IN THE HIGH-LEVEL COMMISSION APPOINTED TO STUDY THE ADA CASE HAS CHANGED SINCE THE LAST MEETINGS OF THE COMMISSION IN MAY 1975 WHEN THE GOVERNMENT INFORMED ADA THERE WOULD BE NO COMPENSATION. ACCORDING TO JIMENEZ, THE COMMISSION IS NOT ESTABLISHED BY STATUTE, BUT RATHER NAMED BY THE MINISTER OF NATURAL RESOURCES. THE MEMBERS OF THE NEWLY-RECONSTITUTED COMMISSION MAY WELL PROVE TO BE NO MORE FAVORABLY DISPOSED TOWARDS ADA THAN WERE THEIR PREDECESSORS. JIMENEZ IS NOT OPTIMISTIC ABOUT THE CHANCES FOR RENEWING THE CLAIM AND SUGGESTS BRINGING ADA'S CLAIM STRAIGHT TO THE SUPREME COUNCIL. EMBASSY, HOWEVER, BELIEVES THAT ADA SHOULD BEGIN BY SEEKING APPOINTMENTS WITH ATTORNEY GENERAL ERAZO AND MINISTER OF NATURAL RESOURCES VARGAS, INTER ALIA, TO MAKE PRELIMINARY SOUNDINGS ON THE SITUATION BEFORE CONTEMPLATING ANY APPROACH TO THE SUPREME COUNCIL. WE UNDERSTAND THAT ADA ATTORNEY BRINSMADE PLANS TO VISIT ECUADOR IN THE NEXT FEW WEEKS. EMBASSY WILL BE PREPARED TO ASSIST IN SECURING APPOINTMENTS.

12. PLEASE ADVISE.
BREWSTER

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: LITIGATION, NATIONALIZATION, PETROLEUM INDUSTRY, CONSORTIUMS, COURT DECISIONS
Control Number: n/a
Copy: SINGLE
Draft Date: 17 MAR 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: coburnhl
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976QUITO02053
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D760102-0063
From: QUITO
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760351/aaaabszn.tel
Line Count: 184
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION ARA
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 76 STATE 53143
Review Action: RELEASED, APPROVED
Review Authority: coburnhl
Review Comment: n/a
Review Content Flags:
Review Date: 15 JUL 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <15 JUL 2004 by saccheem>; APPROVED <02 NOV 2004 by coburnhl>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: ADA CONSORTIUM'S APPEALS FOR ASSISTANCE
TAGS: EINV, ENRG, PFOR, EC, ADA
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006